

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kelly Luethe, individually and as parent and natural guardian of her two minor children, K. L. and an unborn child; and as Trustee for the next of kin of decedent, Jarrett Luethe,

Plaintiff,

vs.

m2Food, Inc., a Minnesota corporation, d/b/a Carbone's Pizza & Sports Bar, and Jesse Dean Brown,

Defendants

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

Plaintiff Kelly Luethe, for her Complaint against the defendants, states and alleges as follows:

INTRODUCTION

1. This case arises from the death of Jarrett Luethe in a single-vehicle crash while he was a passenger in a motor vehicle driven by defendant Jesse Dean Brown. Mr. Brown crashed the vehicle due to his state of intoxication after being illegally provided alcohol by defendant m2Food, Inc.'s bar, Carbone's Pizza & Sports Bar.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff Kelly Luethe and her minor children are citizens of the state of Wisconsin. Kelly Luethe is the surviving wife of the decedent, Jarrett Luethe. She resides in Sparta, Wisconsin with her minor daughter, K.L., and is currently pregnant with another child whose birth is expected in January, 2018. Both K.L. and Kelly

Luethe's unborn child are the children of Kelly and Jarrett Luethe, as husband and wife.

3. Plaintiff Kelly Luethe was appointed trustee for the next of kin of Jarrett Luethe by Order of the Minnesota District Court, Hon. Mark Vandelist, Court File 40-CV-17-1073, filed November 15, 2017. A copy of said Order is attached hereto as Exhibit A.

4. Defendant m2Food, Inc. is a citizen of Minnesota. Defendant m2Food, Inc. is a for profit corporation incorporated in Minnesota, with its principal place of business in Minnesota. Its registered office address is 6695 135th Street West, Apple Valley, Minnesota 55124. At all relevant times, defendant m2Food, Inc. operated a bar and restaurant in New Prague, Minnesota known as "Carbone's Pizza & Sports Bar," pursuant to a liquor license issued by the city of New Prague.

5. Defendant Jesse Dean Brown is a citizen of Minnesota.

6. Plaintiff Kelly Luethe brings this Complaint against defendant m2Food, Inc., a Minnesota liquor licensee, in her individual capacity and on behalf of her minor children, pursuant to Minnesota's Civil Damages Act, Minn. Stat. § 340A.801, et seq.

7. Plaintiff Kelly Luethe brings this Complaint against defendant Jesse Dean Brown in her capacity as trustee for the next of kin of Jarrett F. Luethe, pursuant to Minnesota's Wrongful Death Statute, Minn. Stat. § 573.02, et seq.

8. Jurisdiction is proper in the United States District Court pursuant to 28 U.S.C. § 1332 (a), in that there exists complete diversity of citizenship between plaintiff

and defendants and the matter in controversy exceeds Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs.

9. Venue is proper in the United States District Court for the District of Minnesota in that the incident giving rise to the causes of action asserted herein occurred in Le Sueur County, Minnesota.

FACTUAL ALLEGATIONS

10. At all relevant times, defendant m2Foods, Inc. held a liquor license permitting on-sale service of liquor at its establishment, Carbone's Pizza & Sports Bar, in New Prague, Minnesota.

11. At all relevant times, defendant m2Foods, Inc. engaged in the provision for profit of intoxicating liquor to the public.

12. Defendant m2Foods, Inc.'s agent(s) and employee(s) provided liquor to defendant Jesse Dean Brown on the evening of August 24, 2017 at Carbone's Pizza & Sports Bar. Mr. Brown was provided and thereafter consumed the liquor while he was obviously intoxicated.

13. Mr. Brown left Carbone's Pizza & Sports Bar in a state of impairment from the consumption of liquor he was provided while obviously intoxicated at the defendant bar on the evening of August 24, 2017.

14. Mr. Brown drove away from Carbone's Pizza & Sports Bar in his 2014 Ford sports utility vehicle with the decedent, Jarrett Luethe, as his passenger.

15. At approximately 11:24 p.m. on August 24, 2017, Mr. Brown caused a catastrophic one-vehicle crash that resulted in the death of Jarrett Luethe. The crash

occurred on 141st Avenue in the township of Lanesburgh, within two-and-a-half miles of Carbone's Pizza & Sports Bar. As Mr. Brown drove south on 141st Avenue, his vehicle crossed the center line, left the roadway, went airborne, landed, and rolled multiple times. Responding law enforcement found the vehicle approximately 200 feet off the road in a bean field on the east side of 141st Avenue, engulfed in flames. Mr. Luethe was pronounced dead at the scene from multiple traumatic injuries received in the crash.

16. Following the collision, Mr. Brown's Preliminary Breath Test reading was .183. His blood alcohol content over three hours post-collision was .134.

17. As a direct and proximate result of the subject incident, the wife and minor children of Mr. Luethe have sustained and will continue to sustain injuries to their property, means of support, and other pecuniary losses, with a present value in excess of Seventy-five Thousand Dollars (\$75,000). By way of example, their damages include, but are not limited to, the following:

- (a) past and future loss of financial support Mr. Luethe would have provided to his wife and minor children had he had lived;
- (b) past and future loss of advice, comfort, assistance, companionship, protection, counsel, guidance, and aid Mr. Luethe would have provided to his wife and minor children had he lived;
- (c) funeral and burial expenses in an amount exceeding \$19,000.

18. As a direct and proximate result of the subject incident and the resulting death of Jarrett Luethe, the next of kin of Jarrett Luethe have suffered, and in the future

will suffer, pecuniary losses and damages with a present value in excess of Seventy-five Thousand Dollars (\$75,000). By way of example, these losses and damages include, but are not limited to, the following:

- (a) past and future loss of financial support Mr. Luethe would have provided to his next of kin had he lived;
- (b) past and future loss of advice, comfort, assistance, companionship, protection, counsel, guidance, and aid Mr. Luethe would have provided to his next of kin had he lived;
- (c) funeral and burial expenses in an amount exceeding \$19,000.

**COUNT I—CIVIL DAMAGES ACT
(Defendant m2Foods, Inc.)**

19. Plaintiff realleges all preceding paragraphs.

20. At all relevant times, defendant m2Foods, Inc. was subject to the provisions of the Minnesota Civil Damages Act, Chapter 340A, *et seq.* of the Minnesota Statutes pertaining to the provision of intoxicating liquors to the public.

21. During the evening hours of August 24, 2017, an agent(s) or employee(s) of defendant m2Foods, Inc. provided intoxicating liquor to Mr. Brown when he was obviously intoxicated, in violation of Minn. Stat. § 340A, *et seq.* and other pertinent statutes and law.

22. The consumption of alcohol illegally provided to Mr. Brown by an agent(s) or employee(s) of defendant m2Foods, Inc. was a direct, proximate and substantially contributing cause of the fatal collision of August 24, 2017 and the

resulting damages to Mr. Luethe's wife and children, as said damages have been described herein.

**COUNT II – NEGLIGENCE
(Defendant Jesse Dean Brown)**

23. Plaintiff realleges all preceding paragraphs.

24. Defendant Jesse Dean Brown operated his vehicle in a negligent manner, directly and proximately causing the collision that resulted in the death of Jarrett Luethe and the losses, harms and damages caused to Jarrett Luethe's next of kin. Illustrations of such negligence, cited by way of example but not limitation, are as follows:

A. Defendant Jesse Dean Brown drove his motor vehicle across the centerline and off of the highway, in violation of Minn. Stat. §169.18;

B. Defendant Jesse Dean Brown drove in a careless manner in violation of Minn. Stat. §169.13;

D. Defendant Jesse Dean Brown failed and neglected to maintain proper control of the motor vehicle he was operating;

E. Defendant Jesse Dean Brown failed and neglected to exercise reasonable care in the operation of his motor vehicle;

F. Defendant Jesse Dean Brown operated a vehicle in a negligent manner while under the influence of alcohol, with an alcohol concentration of over 0.08; and

Defendant Jesse Dean Brown was negligent and reckless with respect to the subject collision in other ways too numerous to mention herein.

25. As a direct and proximate result of Defendant Jesse Dean Brown's negligence, the next of kin of Jarrett Luethe have sustained the losses, harms and damages described herein.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for the following judgment against the defendants, and each of them:

- a. Awarding plaintiff damages in an amount reasonably exceeding Seventy-Five Thousand Dollars (\$75,000);
- b. Awarding plaintiff all applicable pre-judgment and post-judgment interest;
- c. Awarding plaintiff all reasonable costs and disbursements incurred in prosecuting this matter; and
- d. Awarding such other relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, the plaintiff hereby demands a trial by jury on all issues so triable.

DATED: January 8, 2018

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